

Constitutional Law
PS 3150 Fall 2015
Monday Wednesday 2:00–3:15 p.m.
Location: Anne Belk Hall 109

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Office Hours: Mondays and Wednesdays 10:00–11:00 a.m.,
Tuesdays 9:00 a.m.–12:00 p.m. (virtual),
Thursdays 9:00 a.m.–11:00 a.m. (virtual), and by appointment

“The federal constitution created a government that limited, separated and checked the powers of government. Federalism divided powers between the national government and state government. Separation of Powers split the federal government among the three branches of government. And, Checks and Balances provided limits over those powers that each branch retained. Because these doctrines are not self-enforcing, it has by and large been up to the Supreme Court to determine what the appropriate powers the federal government and its three branches are.” –Jeffrey Segal

Through readings of Court cases, we will focus on how the Court determines the latitude given and limitations of government actions; in doing so, we will see how important the Supreme Court is in the functions of government and politics.

1 Required Text

There is one required text for this course:

- Epstein, Lee and Thomas G. Walker. 2014. *Constitutional Law for a Changing America: Institutional Powers and Constraints*. 8th ed. Thousand Oaks, CA: CQ Press.

Supplementary material will be posted on AsULearn or distributed via e-mail if necessary. All class communication will be sent to the e-mail address on file with the university. Students are expected to check this account daily.

2 Course Requirements

- *Participation:* (15%)

- *Homework Assignments:* (15% total)
- *Exam I:* (15%)
- *Exam II:* (25%)
- *Final Exam:* (30%)

Examinations: All exams will be graded on an 0-100 scale. Grades will consist of 3 exams, two homework assignments, and participation. The exams will be cumulative. Make-up exams will only be offered under extraordinary circumstances, i.e. a death in the family or medical emergency. Proper documentation is required. Note that simply visiting a doctor is not sufficient. There must be written documentation stating that the student was physically incapable of taking the exam. All make-up exams must be completed within one week (7 calendar days) of the original exam date. This window will only be increased for the most extreme cases. Failure to complete a make-up exam within the allotted 7-day window will result in a grade of zero for the exam. The format of the make-up exam is left to the discretion of the instructor.

I will impose a 24-hour moratorium on the discussion of grades beginning when a graded assignment or exam is returned. In addition to this waiting period, all concerns regarding graded work must be presented in writing.

Attendance and Participation: Students are expected to attend every class. Students who arrive after the attendance sheet has been collected will be counted as absent. **Accumulation of six (6) absences in a semester will lower your final grade by two (2) letter grades.** Students who miss class are responsible for all material missed. Beyond attendance, students are expected to have completed all of the assigned reading before class. Due to the large amount of material covered each meeting, it is imperative that everyone be familiar with the material before each class begins. Completing the reading before class also allows students to engage in thoughtful discussion and makes class more interesting. The quality (not just quantity) of class participation will be considered when computing the student's final grade. Remember: simply showing up is not enough to get credit for participation.

Note: There may be unannounced quizzes if it appears students are not keeping up with the reading. Any material covered up to and including that day's material (textbook readings and lecture) is fair game for a quiz. Note that quizzes may be given at any time during the class period—including multiple quizzes per day—and *there are no make-up quizzes.*

Homework Assignments: There will be two written homework assignments due during the term and students will be able to drop their lowest homework grade. Detailed instructions for each will be distributed closer to the due date. All students must turn in a hard copy as electronic submissions will not be accepted. Students will be penalized a letter grade (10 points) for every business day the hard copy assignment is late. Papers turned in after class has begun on the day the assignment is due will also be subject to the letter grade penalty. Improper citations or other forms of plagiarism will result in a grade of zero (0). Please see the academic integrity section below.

Grading Scale: Letter grades will be assigned according to the scale below:

- 100-94 = "A"
- 93-90 = "A–"
- 89-87 = "B+"
- 86-84 = "B"
- 83-80 = "B–"
- 79-77 = "C+"

- 76-74 = “C”
- 73-70 = ”C-”
- 69-67 = “D+”
- 66-64 = “D”
- 63-60 = “D-”
- Below 60 = “F”

A final word on grading: Final grades will only be rounded up in the case of decimals, e.g. an 85.4 will round to an 86. An 89.0 *will not* be rounded to a 90. This policy is non-negotiable. Please plan accordingly.

“Lack of preparation on your part does not constitute an emergency on my end.”
- Unknown Origin

“Do or do not, there is no try.”
-Yoda

3 Classroom Policies

For additional and more detailed policies, please visit <http://academicaffairs.appstate.edu/syllabi>

Electronic Devices: Students are permitted to bring electronic devices to class but use of these devices must be limited to acceptable classroom activities. Laptop and tablet computers may be used solely for note taking. Any internet activity (including checking email), gaming, or other use that does not directly pertain to this class is unacceptable. Likewise, students are expected to silence their cell phones and refrain from talking, texting, or otherwise using their phones for the duration of the class period. Students who violate the electronics policy will receive a grade of zero (0) for their final attendance and participation grade. If you feel you will not be able to abide by this policy, please leave your electronic devices at home so you won’t be tempted.

No audio or image recording is allowed in the classroom without the express written consent of the instructor.

Email: Writing a professional email is an important skill one should master before graduation. All emails to the instructor should include the following: a subject line briefly explaining the topic of the email and that it pertains to PS 3150; a greeting more professional than ”Yo” or ”Hey;” a clear question or request; and should identify the sender by name. **Emails lacking any of these criteria will not be returned.** Most emails will be returned within 24 hours on weekdays and 48 hours on weekends, although circumstances may arise which delay response time.

Office Hours: Office hours are as listed on the top of the syllabus. Students who are having difficulty with the course materials and/or assignments are encouraged to see me during office hours or schedule an appointment to meet with me outside of office hours. Please note that office hours are for clarification of material, not for recreating a lecture. In other words, if you miss a class please make sure your first course of action is to read the required readings and obtain the lecture notes from a classmate rather than coming to office hours and asking me to “re-do” the lecture. I am always happy to spend time with students clarifying materials, provided they have made an independent effort to comprehend the material.

A List of Do’s and Don’ts (Mostly Don’ts)

Do’s:

- Attend all classes.

- Read all of the assigned material before class.
- Participate in class discussion.
- Ask for help as soon as you feel yourself falling behind—not the evening before an exam or paper.

Don'ts:

- Don't ask me if you have to do something. I will always tell you no—but keep in mind there are always consequences for failing to do it.
- Don't ask me how to get an A in this course. The syllabus clearly states how to achieve this desired outcome—accumulate 94% (or more) of the total available points.
- Don't ask me if something we are discussing in class is important. Assume if we are talking about it that it is important.
- Don't complain if you are tardy and miss a quiz or other in-class assignment. Chronic lateness is your problem, not mine.
- Don't ask me to email you anything. Most things will be placed on ASULearn. If you are absent, it is your responsibility to get it and this does not mean asking me for it.
- If you miss class for any reason, don't ask me if you missed something important. Assume you missed something important and figure out how you are going to obtain that information.
- Don't text or talk on your cell phone, sleep, talk to your fellow classmates, read the newspaper, check your email, Facebook, Twitter, GChat/IM, Yik Yak, shop online, or do work or reading for another class during class time. If you feel compelled to engage in any of these activities, STAY HOME (seriously).

4 Americans with Disabilities Act

Appalachian State University is committed to making reasonable accommodations for individuals with documented qualifying disabilities in accordance with the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. If you have a disability and may need reasonable accommodations in order to have equal access to the University's courses, programs and activities, please contact the Office of Disability Services (828.262.3056 or www.ods.appstate.edu). Once registration is complete, individuals will meet with ODS staff to discuss eligibility and appropriate accommodations. Please notify me as soon as possible if you require any accommodations related to a disability.

5 Academic Integrity

Each student must pursue his or her academic goals honestly and be personally accountable for all submitted work. Representing another person's work as your own is always wrong. Faculty are required to report any suspected instances of academic dishonesty to the Office of Student Conduct. For more comprehensive information on academic integrity, including categories of academic dishonesty, please refer to the academic integrity code website at <http://studentconduct.appstate.edu/pagesmith/2>

6 Course Schedule

**This syllabus serves as a general plan for the course. Deviations announced by the instructor may be necessary.*

Aug 17: Introduction

Aug 19: The Constitution

Required Reading: E&W 11-44

Aug 24: Introduction the Supreme Court/Judicial Review

Required Reading: *Marbury v. Madison (1803)*
Martin v. Hunter's Lessee (1816)

Aug 26 – Aug 31: Judicial Review/Judicial Interpretation

Required Reading: *Ex parte McCordle (1869)*
Baker v. Carr (1962)
Nixon v. United States (1993)
Flast v. Cohen (1968)

Sept 2 – Sept 14: Legislative

Required Reading: *Powell v. McCormack (1969)*
US Term Limits, Inc. v. Thornton (1995)
Gravel v. United States (1972)
McCulloch v. Maryland (1819)
Watkins v. United States (1957)

Sept 7: No Class – Labor Day

Sept 9: No Class – SAPLA Conference

Sept 16: Catch-up/Review Day

Sept 21: **EXAM I**

Sept 23: Executive I

Required Reading: *In re Neagle (1890)*
Clinton v. City of New York (1998)
Morrison v. Olson (1988)

Sept 28 – Sept 30: Executive II

Required Reading: *Mississippi v. Johnson (1867)*

Nixon v. Fitzgerald (1982)
Clinton v. Jones (1997)
Ex parte Grossman (1925)
US v. Curtiss-Wright Export Corp (1936)

Oct 5: Separation of Powers

Required Reading: *J.W. Hampton and Company v. US* (1928)
Mistretta v. United States (1989)
INS v. Chadha (1983)
Bowsher v. Synar (1986)

Oct 7 – Oct 12: War Powers

Required Reading: *The Prize Cases*
Ex parte Milligan (1866)
Ex parte Quirin (1942)
Korematsu v. US (1944)
Youngstown Sheet and Tube Co v. Sawyer (1952)
United States v. US District Court (1972)

Oct 14: Catch-up/Review Day

Oct 19: **EXAM II**

Oct 21 – Oct 28: Federalism

Required Reading: *Scott v. Sandford* (1857)
Hammer v. Dagenhart (1918)
US v. Darby Lumber (1941)
National League of Cities v. Usery (1976)
Garcia v. San Antonio MTA (1985)
New York v. United States (1992)
Printz v. United States (1997)
Michigan v. Long (1983)
Crosby v. National Foreign Trade Council (2000)
Pennsylvania v. Nelson (1956)
Pacific Gas & Electric Co. v. State Energy Res. C&D Com. (1983)

Nov 2 – Nov 9: Commerce Clause

Required Reading: *Gibbons v. Ogden* (1824)
United States v. E.C. Knight Co. (1895)
Stafford v. Wallace (1922)
Schechter Poultry Corp v. United States (1935)
Carter v. Carter Coal Company (1936)
NLRB v. Jones & Laughlin Steel Corp (1937)

Wickard v. Filburn (1942)
United States v. Lopez (1995)
United States v. Morrison (2000)
Gonzales v. Raich (2005)
Champion v. Ames (1903)
Katzenbach v. McClung (1964)

Nov 11 – Nov 18: Taxation and Spending

Required Reading: *Pollack v. Farmers Loan (1992)*
Davis v. Michigan Department of Treasury (1989)
United States v. Butler (1936)
Steward Machine Co. v. Davis (1937)
South Dakota v. Dole (1987)
Complete Auto Transit v. Brady (1977)
Oregon Waste Systems v. Dep't of Env. Quality (1994)

Nov 23: Economic Substantive Due Process

Required Reading: *The Slaughterhouse Cases (1873)*
Lochner v. New York (1905)
Adkins v. Children's Hospital (1923)
West Coast Hotel v. Parrish (1937)
BMW of North America v. Gore (1996)

Nov 27: No Class -- Thanksgiving

Nov 30: Takings Clause

Required Reading: *United States v. Causby (1946)*
Penn Central Trans. Co. v. City of New York (1978)
Stop the Beach v. FL Dep't of Environ. Protect. (2010)
Berman v. Parker (1954)
Kelo v. City of New London (2005)

Dec 2: Catch-up/Review Day

Dec 10 **FINAL EXAM – 9:00 am – 11:30 am**